

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI SHAHROKHI,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; THE HONORABLE MATHEW  
HARTER, DISTRICT JUDGE; AND THE  
HONORABLE BILL HENDERSON,  
DISTRICT JUDGE,

Respondents,

and

KIZZY BURROW; AND AARON D.  
FORD, ATTORNEY GENERAL, CLARK  
COUNTY,

Real Parties in Interest.

No. 85705

FILED

JAN 04 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus or prohibition challenges NRS 125C.0035(5) as unconstitutional and seeks to vacate two district court orders entered in child custody proceedings between petitioner Ali Shahrokhi and real party in interest Kizzy Burrow resulting, in part, from application of that statute.<sup>1</sup> Petitioner further asserts that the two

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<sup>1</sup>NRS 125C.0035(5) provides, in pertinent part, “Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable

orders, entered on September 21 and October 12, 2020, should be vacated for other reasons, including lack of subject matter jurisdiction, failure to hold a jury trial, and violation of wire-tap statutes.<sup>2</sup>

Having reviewed the petition and appendix,<sup>3</sup> we conclude that our extraordinary and discretionary intervention is not warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). Writ relief is available only when there is no plain, adequate, and speedy legal remedy, and here, petitioner had an adequate legal remedy in the form of an appeal from the final judgment in the child custody case. *See Pan*, 120 Nev. at 224, 88 P.3d at

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presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child.”

<sup>2</sup>We direct the clerk of this court to strike pages 16, 20, 22, and 24 of the petition, as well as the December 8, 2022, emergency motion to vacate the wire-tap order, for containing inappropriate and insulting personal attacks on the district judge. *Shahrokhi v. Eighth Judicial Dist. Court*, Docket No. 84189 (Order Striking Petition for Writ of Mandamus or Prohibition, Feb. 25, 2022) (cautioning petitioner that failure to comport with basic standards of decorum and respect, as described therein, could result in this court summarily striking his documents); *see Phillips v. Carey*, 638 F.2d 207, 208 (10th Cir. 1981) (“[I]f the complaint or other pleadings are abusive or contain offensive language, they may be stricken sua sponte under the inherent powers of the court.”).

<sup>3</sup>Petitioner’s motion to file the appendix under seal because it contains materials that were sealed in the district court is granted, SRCR 7; the clerk of this court shall file the appendix provisionally received in this court on November 30, 2022, under seal.

841; NRS 34.170; NRS 34.330, *see also Archon Corp. v. Eighth Judicial Dist. Court*, 133 Nev. 816, 819, 407 P.3d 702, 706 (2017) (“A writ of mandamus is not a substitute for an appeal.”).

Indeed, petitioner did appeal, challenging the same orders complained of here, and the orders were affirmed. *Shahrokhi v. Burrow*, Docket Nos. 81978, 82245 & 83726 (Order of Affirmance (Docket Nos. 81978, 82245, and 83726) and Dismissing Appeal in Part (Docket No. 83726), May 12, 2022). Although petitioner asserts that, in his appeal, the court did not address the issues raised here, that assertion is both incorrect and unavailing, and our further review of those issues is precluded by the law of the case doctrine. *See id.* at \*2 (“Ali’s constitutional challenge to NRS 125C.0035 fails.”); *id.* at 3 (“Ali’s due process claims fail.”); *id.* at \*5 (“We reject any argument the proceedings were criminal or in excess of the court’s jurisdiction.”); *id.* at 6 n.7 (“We are not persuaded by Ali’s arguments that he was not afforded adequate notice or an opportunity to respond to Kizzy’s domestic violence allegations, as he was present at numerous court hearings during which the court, parties, and counsel discussed the need for an evidentiary hearing specifically regarding those allegations.”); *see Bd. of Gallery of History v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) (noting that the court’s failure to rule on a request constitutes a denial of the request); *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (“Issues not raised in an appellant’s opening brief are deemed waived.”); *Recontrust Co., N.A. v. Zhang*, 130 Nev. 1, 8, 317 P.3d 814, 818 (2014) (explaining that the law of the case doctrine prohibits reopening questions that have been previously decided “explicitly or by necessary implication”). Accordingly, the availability of an appeal, as

well as the law of the case doctrine, precludes our consideration of this petition, and we

ORDER the petition DENIED.<sup>4</sup>

Stiglich, C.J.  
Stiglich

Cadish, J.  
Cadish

Pickering, J.  
Pickering

cc: Chief Judge, Eighth Judicial District Court  
Hon. Bill Henderson, District Judge, Family Court Division  
Ali Shahrokhi  
Attorney General/Carson City  
Kizzy Burrow  
Eighth District Court Clerk

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<sup>4</sup>Petitioner's motion to disqualify Justices Ron Parraguirre and Douglas Herndon under NCJC 2.11(A) and *Rippo v. Baker*, 580 U.S. 285, 137 S. Ct. 905, 907 (2017), in which he asserts that the justices' impartiality could reasonably be questioned because petitioner has filed a federal lawsuit concerning the child custody decisions and is attempting to name them in it through an amended complaint, is denied. *In re Taylor*, 417 F.3d 649, 652 (7th Cir. 2005); see also *Terry v. State*, 602 N.E.2d 535, 541 (Ind. Ct. App. 1992); *Farm Credit Bank of St. Paul v. Brakke*, 512 N.W.2d 718, 721 (N.D. 1994) (addressing factors relevant to disqualification based on a pending lawsuit).